

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MARGARET ENGEL,

Plaintiff,

v.

ALLIED INSURANCE COMPANY; et al.,

Defendants.

3:14-CV-0384-LRH-VPC

ORDER

Before the court is defendants Allied Insurance Company (“Allied”) and AMCO Insurance Company’s (“AMCO”) (collectively “defendants”) petition for removal pursuant to 28 U.S.C. § 1441. Doc. #1.¹

Plaintiff Margaret Engel (“Engel”) initiated the present action against defendants on April 17, 2014, in the Second Judicial District Court for Washoe County, Nevada. On July 22, 2014, defendants removed this action to federal court on the basis of diversity jurisdiction. Doc. #1.

Defendants argue that the amount in controversy has been met because, although Engle has identified only \$50,000 in damages, she has requested punitive damages. Under Nevada law, a plaintiff awarded less than \$100,000 in compensatory damages may receive punitive damages up to \$300,000. NRS § 42.005(1)(b). Therefore, defendants argue that with punitive damages, the amount in controversy could be over the \$75,000 requirement.

¹Refers to the court’s docket

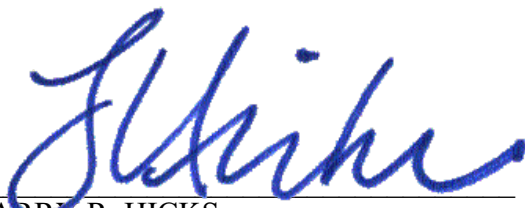
1 The court has reviewed defendants' petition for removal and finds that defendants have not
2 established that the amount in controversy has been met. Generally, the amount in controversy may
3 be satisfied by all of a plaintiff's claims for damages, including attorney's fees and punitive
4 damages. *See Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005). However, the mere
5 possibility of a punitive damages award is not sufficient to prove that the amount in controversy has
6 been met. In order to meet their burden for removal, defendants must present evidence indicating
7 the amount of punitive damages that Engel seeks will, more likely than not, exceed the amount
8 needed to increase the amount in controversy to \$75,000. *See McCaa v. Massachusetts Mutual Life*
9 *Insurance Company*, 330 F. Supp. 2d 1143, 1149 (D. Nev. 2004); *see also, Gaus v. Miles, Inc.*, 980
10 F.2d 564, 567 (9th Cir. 1992).

11 Here, defendants have failed to provide the court with sufficient evidence to establish that
12 the amount in controversy will be exceeded by any punitive damages claimed by Engel. Further,
13 defendants have not shown that an award of punitive damages is a supportable claim in this action,
14 nor have they established that any punitive damage award, if awarded, is more likely than not to
15 exceed \$25,000. Thus, defendants have failed to meet their burden to prove that the amount in
16 controversy has been met. Accordingly, the matter shall be remanded for lack of jurisdiction.

17
18 IT IS THEREFORE ORDERED that the present action, case no. 3:14-cv-0384-LRH-VPC,
19 is REMANDED to the Second Judicial District Court for Washoe, Nevada.

20 IT IS SO ORDERED.

21 DATED this 12th day of August, 2014.

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23 
24 LARRY R. HICKS
25 UNITED STATES DISTRICT JUDGE
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